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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,607	02/06/2004	Andrew Harker	30021177 US02	7766

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AVAGO TECHNOLOGIES, LTD.  
P.O. BOX 1920  
DENVER, CO 80201-1920

EXAMINER

WALBERG, TERESA J

ART UNIT PAPER NUMBER

3753

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/773,607

Applicant(s)

HARKER ET AL.

Examiner

Teresa J. Walberg

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10,20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/6/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. Claims 1-10 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 20 April 2006.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly (3,302,703).

Kelly discloses a thermal switch (Fig. 4) for switchably providing either a relatively low or relatively high thermal impedance between a heat source side (14) of a thermal switch and a heat sink side (20) of the thermal switch, the thermal switch including a channel (Fig. 4) having a first location (between 14 and 20) between the heat source and heat sink sides of the thermal switch and a second location (within 32), a thermally conductive fluid within the channel (Fig. 4), the fluid having a surface tension such that it remains substantially as a single droplet and does not flow spontaneously along the channel (col. 1, lines 40-57), and means (33, 36) for displacing the thermally conductive fluid between the first and second locations in the channel, the first (between 14 and 20) and second locations (within 32) including first (between 14 and 20) and second (within 32)

cavities in the channel for receiving the droplet (Fig. 4), which substantially fills the cavity in which it is located (Fig. 4).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (3,302,703) in view of Telefunken (DE 1301386)(cited by applicants).

Kelly discloses a thermal switch as claimed, with the exception of a channel extending between the first and second chambers and first and second cavities located between the first and second chambers, the first and second chambers including heating means for heating a non-thermally conductive fluid to increase its volume and exert pressure on the droplet of thermally conductive fluid so as to displace it between locations.

Telefunken discloses a switch in which a drop of thermally conductive fluid (mercury) is moved between first and second chambers (1,2) and including a channel extending between the first and second chambers, first and second cavities (3, 4) located between the first and second chambers (1, 2), the first and second chambers (1, 2), including heating means (11,1 2), for heating a non-thermally conductive fluid to increase its volume and exert pressure on the droplet (6) of thermally conductive fluid so as to displace it between locations.

It would have been obvious in view of Telefunken to use such a fluid moving mechanism in the thermal switch of Kelly, the motivation being to more quickly move the fluid between locations.

6. Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

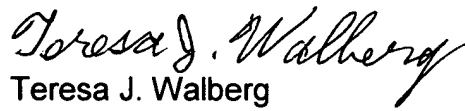
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stanley, Awender, Grabner, Kondoh et al, Lutz are cited to show thermal switches.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa J. Walberg whose telephone number is 571-272-4790. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3753

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Teresa J. Walberg  
Primary Examiner  
Art Unit 3753

tjw